

ENROLLED ORDINANCE 158-55

AMEND THE WAUKESHA COUNTY CODE TO INCLUDE REGULATIONS  
FOR A HUMANE OFFICER PROGRAM AND COLLECTION  
OF A SURCHARGE ON DOG LICENSE FEES

WHEREAS the Waukesha County Board of Supervisors acknowledges the enjoyment derived from pet ownership, and

WHEREAS the Board of Supervisors further appreciates the need to protect animals from themselves, from other animals and from humans, and

WHEREAS the Board of Supervisors recognizes that humane societies in Waukesha County have for many years provided pick-up and impoundment services of stray animals and dogs running at-large, on a contractual basis with individual communities in the county, and is hereby allowed to continue these services after provisions of this Article become effective, and

WHEREAS Wisconsin State Statute, Chapter 173, Animals; Humane Officers, requires persons investigating suspected violations of statutes or ordinances relating to animal neglect or abuse to be appointed Humane Officers, and

WHEREAS a survey of Waukesha County municipalities show the majority support the appointment of county Humane Officers, and

WHEREAS due to Waukesha County's growth there is an increasing demand from citizens and local law enforcement for services to address animal neglect and abuse issues with trained, equipped and certified staff 24 hours a day, 7 days a week, and

WHEREAS the majority of municipalities surveyed support funding the Humane Officer positions through the dog licensing fee, and

WHEREAS the Waukesha County Board of Supervisors has the authority pursuant to sec. 174.05(3) WI statutes to increase the dog licensing fee charged by the municipalities in the county,

WHEREAS existing staff of 1 FTE Humane Animal Specialist will be proposed to be abolished and 2 on-call temporary extra help Humane Animal Specialists positions will not be funded in the proposed 2004 budget, and

WHEREAS there is a need to create 2 FTE Humane Officer positions and include budget appropriations for 1 on-call extra help Humane Officer position as part of the 2004 budget request process, and

WHEREAS these position changes will be funded through a proposed increase in the dog licensing fee as part of the 2004 budget request process to provide services 24 hours a day, 7 days a week.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES  
ORDAIN that:

1. The dog license fee charged in Waukesha County shall be increased to include the addition of a two-dollar surcharge;

2. That the municipalities collecting said fee shall tender the entire amount to the County for the specific purpose of funding the county-wide Humane Officer Program; and,
3. Adjustment to the dog license fee will be made through the county budget process.

BE IT FURTHER ORDAINED that the increased surcharge to the dog license fee be included in the departmental 2004 proposed budget.

BE IT FURTHER ORDAINED that the Waukesha County Code of Ordinances be amended so as to create a new article in Chapter 14, to be entitled "Countywide Humane Officer Program," and to read as follows:

(a) *Purpose and Intent.* The purpose of this article is to adopt and implement a Humane Officer program in Waukesha County in accordance with uniform statewide standards under s. 95.21, Wis. Stats. and Chapters 173, 174, and 951 Wisconsin Statutes.

(b) *Statutory Authority.* This article is adopted under the authority of ss. 59.51 and 173.03 Wisconsin Statutes. Chapter 173, Animals; Humane Officers, Wisconsin Statutes, and Chapter ATP 15, Humane Officer Training and Certification, Wisconsin Administrative Code, are hereby adopted and made part of this code.

(c) *Definitions.* In this article:

*Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and protection from exposure to inclement weather.

*Direct control* means immediate and continuous physical control of an animal at all times; such as by means of a fence, leash, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property).

*Exotic species* means any animal whose natural habitat is outside the continental United States, excluding non-venomous reptiles and fish.

*Feral animal* means any animal that is not socialized to humans and is not approachable, nor able to be handled, and/or is unpredictable in its behavior due to fear.

*Humane trap* means a device used to capture animals which does not cause injury to the animal upon capture or confinement.

*Humane manner* means a manner consistent with the physical and behavioral needs of a species; including but not limited to adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the particular animal according to its size, species and breed; including necessary veterinary care.

*Owner* means any person or entity owning, keeping, harboring or having control of one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for ten (10) or more consecutive days. Any implied owner will also be construed as being the owner of an animal. An animal owner is responsible for keeping their animals under direct control at all times and will be held accountable for any violation of this ordinance.

*Sanitary* means clean and free of factors contributing to infectious diseases.

*Secure enclosure* means confinement of an animal in a building or other enclosure that renders such animal inaccessible to any other animal or people and escape.

*Vicious animal* means any animal that bites, scratches or attacks in a menacing fashion, or otherwise injures humans, domesticated or other animals without provocation, or which because of temperament, conditioning or training has a history of attacking, biting or injuring humans or any domesticated or other animals.

*Warning notice* means a form used by a law enforcement officer or Humane Officer served on an owner or owner's agent advising them of an existing violation of this ordinance.

(d) *Prohibiting Animals Running At Large.*

1. It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, including but not limited to domestic, livestock, farm, wildlife or fowl raised in captivity, to permit the animal to stray, run, go or roam at-large in or upon any public street, sidewalk, school grounds, in the area of school vehicles, beaches, parks or on the private property of others without the consent of the owner of such property.
2. Any animal found in violation of this Section may be impounded.
3. Any person seizing an unrestrained, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose.

(e) *Vicious Animals.*

1. A Humane Officer or law enforcement officer may declare that an animal is a vicious animal if it is determined the animal meets the definition of a vicious animal as stated in this ordinance.
2. Any animal declared to be a vicious animal shall be confined in a secure enclosure on the premises of the owner or keeper of such animal. No vicious animal shall be allowed off the premises of the owner or keeper unless such animal remains:
  - A. Inside a secure animal carrier, or
  - B. Under the physical control of such owner or keeper, and securely muzzled and restrained by a chain with a minimum tensile strength of three hundred (300) pounds; or
  - C. Subject to conditions established by the Humane Officer or law enforcement officer.
3. It is a violation of this ordinance for the owner or keeper of a vicious animal to refuse or fail to confine or restrain such animal as required by this Section.

4. No vicious animal impounded pursuant to this ordinance shall be released until:
  - A. The owner or keeper of such vicious animal presents proof to the Humane Officer or law enforcement officer that the animal will be confined as required by this section;
  - B. The owner or keeper executes an affidavit acknowledging that the animal has been declared vicious, agreeing to confine and restrain the animal, and recognizes that any vicious animal found off premises of its owner may be seized by any law enforcement officer or Humane Officer, and upon establishing to the satisfaction of the court of the vicious character of such dog by testimony under oath, reduced to writing, be killed by police authorities or humanely euthanized.
5. The owner or keeper of a vicious animal shall report in writing the name and address of the new owner or keeper to the Humane Officer or law enforcement officer prior to transfer of ownership or custody of such animal, and it is a violation of this ordinance not to report the name and address of the new owner.
6. The owner or keeper of a vicious animal shall report in writing or by telephone the death of such animal to the Humane Officer or law enforcement officer immediately, and it is a violation of this ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian, Humane Officer, law enforcement officer or a representative of a Humane Society.
7. The owner or keeper of a vicious animal, whether or not it has been declared vicious, who permits, allows or causes such animal to run, stray or be uncontrolled or at large in or upon public or private property, shall be in violation of this ordinance if such vicious animal bites, attacks or causes injury to any person or domestic animal.
8. It is a violation of this ordinance for any person convicted under this subsection to own, keep, possess, control or be in charge of any animal of the breed, and any other animals as determined by the Waukesha County Circuit Court, which caused the bite, attack or injury for which a conviction was rendered for a period of three (3) years from the date of conviction, or such other period of time as determined by the Waukesha County Circuit Court. No license certificate, license tag or other permit shall be issued for such type of animal to such person within three (3) years of such conviction, or such other period of time as determined by the Waukesha County Circuit Court.
9. No animal shall be classified as vicious if the threat of injury was sustained by a person who, at the time, was committing or attempting to commit a crime upon the owner of the animal, or who was committing a willful trespass upon premises occupied by the owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or its owner.

(f) *Animals in Motor Vehicles.*

1. The owner or operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.

2. It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.

3. A Humane Officer or law enforcement officer may remove and impound an animal from a vehicle if its safety appears to be in immediate danger from heat or cold or lack of adequate ventilation. The officer is authorized to take all steps reasonably necessary for the removal of such animal, including but not limited to breaking into the vehicle. Neither the officer nor his or her agency shall bear civil liability for damage. The animal may be impounded and taken to a veterinarian if necessary. A written notice will be left in a prominent place upon the vehicle as to the reason for the removal of the animal. The owner of the animal and the owner of the motor vehicle are responsible for any costs incurred.

(g) *Tethering of Animals.* No person shall tether any animal to a fixed object unless such chains, ropes or leashes are so placed or attached that they cannot become entangled with another animal or object, and shall be of sufficient length in proportion to the size of the animal to allow the animal proper movement and convenient access to food, water, and shelter. Such tethering shall be located so as not to allow such animal to trespass on public property or private property belonging to others, nor in such a manner as to cause harm or danger to persons or other animals.

(h) *Opposing a Humane Officer*

1. It shall be unlawful for any person to oppose, resist, obstruct, hinder or in any manner prevent a Humane Officer from performing lawful duties.

2. It shall be unlawful to tear down, burn, deface, destroy or otherwise damage any animal shelter or vehicle, or to release or remove any animal from the custody of a Humane Officer, or trap used by the Humane Officer.

(i) *Officers and Administrators Not Responsible for Accident or Disease to Any Animal.*

Anyone enforcing the provisions of this article shall not be held responsible for any accident or disease that may happen to any animal.

(j) *Citation Constitutes Warning to Household.* Issuance of a citation or warning to an adult member of the household in which an animal resides shall be deemed notice of the citation or warning to all members of the household.

(k) *Citation Authority.*

1. Pursuant to Sec. 66.119, Wis. Stats., the County of Waukesha adopts and authorizes the use of a citation to be issued for violation of ordinances, including ordinances for which a statutory counterpart exists.

2. Form. The citation shall contain the following:

- A. The name and address of the alleged violator.
- B. Factual allegations describing the alleged violation.
- C. The time and place of the offense.
- D. The section of the statute or ordinance violated.
- E. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
- F. The time at which the alleged violator may appear in court.

- G. A statement which, in essence, informs the alleged violator:
- i. That a cash deposit based on the schedule established by this section may be made which shall be delivered or mailed to the Clerk of the Waukesha County Circuit Court prior to the time of the scheduled court appearance.
  - ii. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
  - iii. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
  - iv. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, the penalty assessment imposed by s. 757.05, Wis. Stats. or the jail assessment imposed by s. 302.46(1), Wis. Stats.
- H. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.
- I. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under section G., above has been read. Such statement shall be sent or brought with the cash deposit.
- J. Such other information as the County deems necessary.

*(l) Penalties.*

1. Any person who violates s. 95.21(2), Wis. Stats. shall forfeit not less than \$50 or more than \$100 and costs of prosecution for each violation.
2. Any person who violates s. 174.05(1), Wis. Stats. shall forfeit not less than \$100 nor more than \$500 and costs of prosecution for each violation.
3. An owner who refuses to comply with an order issued under s.95.21, Wis. Stats. to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than \$100 nor more than \$1,000 or imprisoned not more than 60 days or both.
4. Any person who violates the provisions identified in s.951.18 (1), Wis. Stats. shall be subject to the penalty provisions of s.951.18, Wis. Stats.

(m) *Abatement Orders.* Any person who fails to comply with an order of abatement as required under s. 173.11(1), Wis. Stats. shall forfeit not less than \$100 nor more than \$500 plus the costs of prosecution for each violation.

(n) *Modification or Withdrawal of Abatement Orders.* Abatement orders issued under s. 173.11, Wis. Stats. may be modified or withdrawn by the Director of the department of Parks and Land Use. Any person affected by an abatement order issued under s. 173.11, Wis. Stats. may make a written request to the Director of the Department of Parks and Land Use for administrative review under Chapter 18 of the Waukesha County Code. The Director will act upon such request according to the timeline set forth in s.173.11, Wis. Stats.

(o) *Each Day a Separate Offense.* Each day a violation exists shall constitute a separate violation.

(p) *Effective Date.* The provisions of this Article shall take effect subsequent to publication, on January 1, 2004.

BE IT FURTHER ORDAINED that this ordinance shall be effective upon approval and publication.

BE IT FURTHER ORDAINED that the provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Waukesha, Wisconsin, as an addition or amendment thereto and shall be appropriately renumbered to conform to the numbering system contained therein.

BE IT FURTHER ORDAINED that any code section or part of a section in conflict with this ordinance is hereby repealed and declared null and void and of no effect.